

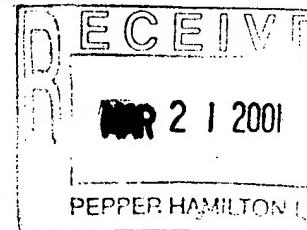


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In re Application of
REGENTS OF THE UNIVERSITY OF CALIFORNIA
Int. Application No.: PCT/US00/27462
Int. Filing Date: 03 October 2000
Priority Date: 30 September 1999
Attorney Docket No.: 112913.211
For: TARGETING CELLS HAVING MAD2
MUTATION FOR TREATMENT AND/OR
PREVENTION OF DISEASE

DECISION ON PETITION

This is in response to applicant's "Petition Under 37 C.F.R. 1.17(h)" filed 20 December 2000, requesting that the filing date of the present international application be changed from 03 October 2000 to 02 October 2000. The submission is being treated as a petition under 37 CFR 1.182. The requisite petition fee has been provided.

37 CFR 1.4(b) states in relevant part,

Since each file must be complete in itself, a separate copy of every paper to be filed in a patent or trademark application, patent file, trademark registration file, or other proceeding must be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical.

In the present case, applicant has furnished a single petition for twelve separate applications, which is contrary to 37 CFR 1.4(b). Accordingly, the present petition will be considered with respect to the first identifiable application only. If applicant desires consideration of the applicable issues with respect to the other eleven applications, separate petitions must be filed, wherein each petition clearly identifies the application number to which it is directed.

BACKGROUND

On 03 October 2000, applicant filed with the United States Receiving Office (RO/US), *inter alia*, a Transmittal Letter, Request, and Fee Calculation Sheet including authorization to

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Re^d Reconsideration: 4/15/01

charge the appropriate filing fee. The submission was assigned the above-identified International Application Number and an International Filing Date of 03 October 2000.

On 25 October 2000, the RO/US mailed a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) indicating that the application has been accorded an International Filing Date of 03 October 2000.

On 20 December 2000, applicant filed the present petition requesting that the International Filing Date be changed to 02 October 2000.

DISCUSSION

Applicant requests relief under 37 CFR 1.182. PCT Article 11(1) states in relevant part, "The receiving Office shall accord as the international filing date the date of receipt of the international application, . . ." In the present case, the RO/US received the international application on 03 October 2000. Thus, pursuant to Article 11(1), applicant is entitled to an International Filing Date of 03 October 2000. There is no provision in the PCT which permits a receiving Office to accord a filing date other than the date of receipt. The USPTO does not have authority to waive Article 11. Therefore, it would be inappropriate to grant the relief requested under 37 CFR 1.182.

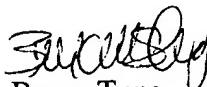
The petition further asserts that relief should be granted pursuant to 37 CFR 1.183. 37 CFR 1.183 states in relevant part, "In an extraordinary situation, when justice requires, any requirement of the regulations *in this part* which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed." (Emphasis added). The language "*in this part*" refers to Title 37, Chapter I, Part 1 of the *Code of Federal Regulations*. Because, the PCT and the associated Regulations Under the PCT do not fall under Title 37, Chapter I, Part 1 of the *Code of Federal Regulations*, 37 CFR 1.183 is inapplicable to the present international application. Therefore, it would be inappropriate to grant the relief requested under 37 CFR 1.183.

CONCLUSION

For the reasons above, the present petition is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within ONE (1) MONTH from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 1.182." No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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